

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KAREN LYNN REYNOSO,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:23-cv-00141-CDB (SS)

ORDER ON STIPULATION FOR AWARD
OF ATTORNEY FEES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT, 28
U.S.C. § 2412(d)

(Doc. 21)

Pending before the Court is the parties' stipulated motion for award of attorney's fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). (Doc. 21). The parties agree to an award of attorney's fees to counsel for Plaintiff Karen Lynn Reynoso ("Plaintiff"), Josephine Mary Gerrard, in the amount of \$8,000.00 pursuant to the EAJA, 28 U.S.C. § 2412(d). *Id.* Plaintiff does not seek reimbursement for costs pursuant to 28 U.S.C. § 1920.

On September 25, 2023, the Court entered an order on the parties' stipulation to grant voluntary remand and remanded this matter to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). (Doc. 19). Judgment was entered the same day. (Doc. 20). On November 28, 2023, Plaintiff filed the pending stipulated motion for attorney fees. (Doc. 21).

Plaintiff requests an award of attorney fees and expenses as the prevailing party. *Id.*; *see*

1 *Shalala v. Schaefer*, 509 U.S. 292, 300-02 (1993) (concluding that a party who prevails in a
2 sentence-four remand order under 42 U.S.C. § 405(g) is a prevailing party). Plaintiff's request
3 is timely. *Van v. Barnhart*, 483 F.3d 600, 607 (9th Cir. 2007).

4 The EAJA provides for an award of attorney fees to private litigants who both prevail in
5 civil actions (other than tort) against the United States and timely file a petition for fees. 28
6 U.S.C. § 2412(d)(1)(A). Under the EAJA, a court shall award attorney fees to the prevailing
7 party unless it finds the government's position was "substantially justified or that special
8 circumstances make such an award unjust." *Id.* Here, the government did not show its position
9 was substantially justified and the Court finds there are no special circumstances that would
10 make an award unjust. Moreover, the government does not oppose Plaintiff's stipulated
11 request. (Doc. 34). *See Sanchez v. Berryhill*, No. 1:16-cv-01081-SKO, 2018 WL 509817, at
12 *2 (E.D. Cal. Jan. 23, 2018) (finding position of the government was not substantially justified
13 in view of the Commissioner's assent to remand); *Knyazhina v. Colvin*, No. 2:12-cv-2726
14 DAD, 2014 WL 5324302, at *1 (E.D. Cal. Oct. 17, 2014) (same).

15 Plaintiff requests an award of \$8,000.00 in EAJA fees. (Doc. 21). The Ninth Circuit
16 maintains a list of the statutory maximum hourly rates authorized by the EAJA, adjusted for
17 increases in the cost of living, on its website. *See Thangaraja v. Gonzales*, 428 F.3d 870, 876-
18 77 (9th Cir. 2005). Plaintiff's application for attorney fees reflects that her counsel spent
19 approximately 48.70 hours of attorney time for a total of \$11,823.38 of attorney fees accrued.
20 Counsel for Plaintiff discounted that amount by \$3,823.38, arriving at the requested amount of
21 \$8,000.00. (Doc. 21 p. 7-8). Applying the published maximum hourly rate for the first half of
22 2023 (\$242.78),¹ the requested \$8,000 award would amount to approximately 32 hours of
23 attorney time (not accounting for any paralegal time expended). The Court has reviewed the
24 docket and finds this amount reasonable and commensurate with the number of hours an
25 attorney reasonably would need to have spent in this case, particularly considering the
26 administrative record which spans over 1200 pages and motion for summary judgment brief

27 ¹ *Statutory Maximum Rates Under the Equal Access to Justice*, available at
28 <https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates/> (last visited October 26,
2023).

1 that raises five issues for review. (Docs. 13, 15). With respect to the results obtained,
2 Plaintiff's counsel obtained a favorable judgment remanding the case for further administrative
3 proceedings. (Docs. 19-20).

4 EAJA fees, expenses, and costs are subject to any offsets allowed under the Treasury
5 Offset Program ("TOP"), as discussed in *Astrue v. Ratliff*, 560 U.S. 586 (2010). If the
6 Commissioner determines upon effectuation of this order that Plaintiff's EAJA fees are not
7 subject to any offset allowed under the TOP, the fees shall be delivered or otherwise
8 transmitted to Plaintiff's counsel.

9 Accordingly, it is HEREBY ORDERED:

- 10 1. Plaintiff's stipulated request for attorney's fees pursuant to the EAJA (Doc. 21) is
11 GRANTED; and
- 12 2. The Commissioner is directed to pay to Plaintiff as the prevailing party attorney fees in
13 the amount of \$8,000.00. Unless any offsets are applied under TOP, the government
14 shall make payment of the fees to Plaintiff's counsel, Josephine Mary Gerrard, in
15 accordance with Plaintiff's assignment of fees and subject to the terms of the
16 stipulation.

17 IT IS SO ORDERED.

18 Dated: November 29, 2023

19 
UNITED STATES MAGISTRATE JUDGE